

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP

1285 AVENUE OF THE AMERICAS
NEW YORK, NEW YORK 10019-6064

TELEPHONE (212) 373-3000

LLOYD K. GARRISON (1946-1991)
RANDOLPH E. PAUL (1946-1956)
SIMON H. RIFKIND (1950-1995)
LOUIS S. WEISS (1927-1950)
JOHN F. WHARTON (1927-1977)UNIT 3601, OFFICE TOWER A, BEIJING FORTUNE PLAZA
NO. 7 DONGSANHUAN ZHONGLU
CHAOYANG DISTRICT
BEIJING 100020
PEOPLE'S REPUBLIC OF CHINA
TELEPHONE (86-10) 5828-630012TH FLOOR, HONG KONG CLUB BUILDING
3A CHATER ROAD, CENTRAL
HONG KONG
TELEPHONE (852) 2846-0300

WRITER'S DIRECT DIAL NUMBER

212-373-3543

WRITER'S DIRECT FACSIMILE

212-492-0543

WRITER'S DIRECT E-MAIL ADDRESS

agordon@paulweiss.com

ALDER CASTLE
10 NOBLE STREET
LONDON EC2V 7JU, U.K.
TELEPHONE (44 20) 7367 1600FUKOKU SEIMEI BUILDING
2-2 UCHISAIWAICHO 2-CHOME
CHIYODA-KU, TOKYO 100-0011, JAPAN
TELEPHONE (81-3) 3597-8101TORONTO-DOMINION CENTRE
77 KING STREET WEST, SUITE 3100
PO. BOX 226
TORONTO, ONTARIO M5K 1J3
TELEPHONE (416) 504-05202001 K STREET, NW
WASHINGTON, DC 20006-1047
TELEPHONE (202) 223-7300

April 27, 2015

By HandThe Honorable Victor Marrero
United States District Judge
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St.
New York, N.Y. 10007-1312*Anwar, et al. v. Fairfield Greenwich Limited, et al.,*
No. 09-cv-118 (S.D.N.Y.) (VM) (FM)

Dear Judge Marrero:

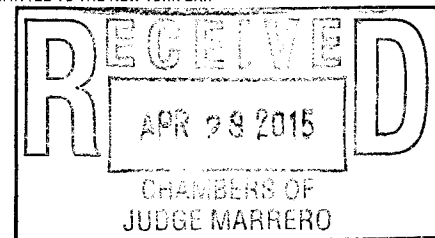
We represent the Citco Defendants. We write on behalf of the Citco Defendants, defendant PricewaterhouseCoopers LLP, and defendant PricewaterhouseCoopers Accountants, N.V. (collectively, the "*Anwar* Defendants") to request a pre-motion conference. The *Anwar* Defendants' contemplated motions will seek the dismissal of plaintiffs' common-law claims as precluded by the Securities Litigation Uniform Standards Act of 1998 ("SLUSA") in light of the Second Circuit's decision last week in *In re Kingate Management Ltd. Litigation*, __ F.3d __, 2015 WL 1839874 (2d Cir. Apr. 23, 2015). *Kingate*, like this case, involved claims by investors in so-called Madoff "feeder funds."

This Court previously ruled, on motions to dismiss, that SLUSA did not preclude plaintiffs' common-law claims because those claims did not allege conduct "in

MATTHEW W. ABBOTT
EDWARD T. ACKERMAN
ALAN J. ALPER
ROBERT A. ATKINS
DAVID J. BALL
JOHN F. BAUGHMAN
LYNN B. BAYARD
DANIEL J. BELLER
CRAIG A. BENSON
MARK S. BERGMAN
BRUCE BIRENBOIM
H. CHRISTOPHER BOEHNING
ANGELO BOSCHINO
JAMES L. BROCHIN
RICHARD J. BRONSTEIN
DAVID W. BROWN
SUSANNA M. BUEBEL
PATRICK S. CAMPBELL
JESSICA S. CAREY
JEANETTE K. CHAN
YVONNE Y. F. CHAN
LEWIS R. CLAYTON
JAY COHEN
KELLEY D. CORNISH
CHRISTOPHER J. CUMMINGS
CHARLES E. DAVIDOW
THOMAS V. DE LA BASTIDE III
ARIEL J. DECKEL
ALICE BELISLE EATON
ANDREW J. EHRLICH
GREGORY A. EZRING
LESLIE GORDON FAGEN
MARC FALCONE
ROSS A. FIELDSTON
ANDREW C. FOLEY
BRAD J. FINKELSTEIN
BRIAN P. FINNEGAN
ROBERTO FINZI
PETER E. FISCH
ROBERT C. FLEDER
MARTIN FLUMENBAUM
ANDREW J. FOLY
HARRIS B. FREIDUS
MANUEL S. FREY
ANDREW L. GAINES
KENNETH A. GALLO
MICHAEL E. GERTZMAN
ADAM M. GIVERTZ
SALVATORE GUGLIORMELLA
ROBERT D. GOLDBAUM
NEIL GOLDMAN
CATHERINE L. GOODALL
ERIC GOODISON
CHARLES H. GOOGE, JR.
ANDREW G. GORDON
UDI GROFMAN
NICHOLAS GROOMBRIDGE
BRUCE A. GUTENPLAN
GAINES GWATHMEY, III
ALAN S. HALPERIN
JUSTIN G. HAMILL
ANDREA HAMMERMAN
GERARD E. HARPER
BRIAN S. HERMANN
MICHELE HIRSHMAN
MICHAEL S. HONG
DAVID S. HUNTINGTON
AMRAN HUSSEIN
LORETTA A. IPPOLITO
BRIAN M. JANSON
JAREN JANGHORBANI
MEREDITH J. KANE

ROBERTA A. KAPLAN
BRAD S. KARP
PATRICK N. KARSNITZ
JOHN C. KENNEDY
BRIAN KIM
ALAN W. KORNBERG
DANIEL J. KRAMER
DAVID K. LAKHDHIR
STEPHEN P. LAMB
JOHN E. LANGE
DANIEL J. LEFFELL
XIAOYU GREG LIU
JEFFREY D. MARELL
MARCO V. MASOTTI
EDWIN S. MAYNARD
DAVID W. MAYO
ELIZABETH R. MCCOLM
MARK F. MENDELSON
WILLIAM B. MICHAEL
TOBY S. MYERSON
CATHERINE NYARADY
JANE B. O'BRIEN
ALEX YOUNG K. OH
BRAD R. OKUN
KELLEY D. PARKER
MARC E. PERLMUTTER
VALERIE E. RADWANER
CARL L. REISNER
LORIN REISNER
WALTER G. RICCIARDI
WALTER RIEMAN
RICHARD A. ROSEN
ANDREW N. ROSENBERG
JACQUELINE P. RUBIN
RAPHAEL M. RUSSO
ELIZABETH M. SACKSTEDER
JEFFREY D. SAFERSTEIN
JEFFREY B. SAMUELS
DALE M. SARCO
TERRY E. SCHIMEK
KENNETH M. SCHNEIDER
ROBERT B. SCHUMER
JOHN M. SCOTT
STEPHEN J. SHIMSHAK
DAVID R. SICULAR
MOSES SILVERMAN
STEVEN SIMKIN
JOSEPH J. SIMONS
AUDRA J. SOLOWAY
SCOTT M. SONTAG
TARUN M. STEWART
ERIC ALAN STONE
AIDAN SYNOTT
ROBYN F. TARNOFSKY
MONICA K. THURMOND
DANIEL J. TOAL
LIZA M. VELAZQUEZ
MARIA T. VULLO
ALEXANDRA M. WALSH
LAWRENCE G. WEE
THEODORE V. WELLS, JR.
BETH A. WILKINSON
STEVEN J. WILLIAMS
LAWRENCE I. WITDORCHIC
MARK B. WLAZLO
JULIA MASON WOOD
JENNIFER H. WU
JORDAN E. YARETT
KAYE N. YOSHINO
TONG YU
TRACEY A. ZACCONE
TAURIE M. ZEITZER
T. ROBERT ZOCHOWSKI, JR.

*NOT ADMITTED TO THE NEW YORK BAR



PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP

The Honorable Victor Marrero

2


connection with the purchase or sale of a covered security.” *Anwar v. Fairfield Greenwich Ltd.*, 728 F. Supp. 2d 372, 398 (S.D.N.Y. 2010) (quoting 15 U.S.C. § 78bb(f)(1)(A)). Since this Court’s ruling, the Supreme Court and the Second Circuit have issued several significant decisions interpreting SLUSA. Those decisions, we respectfully submit, establish that this Court’s prior ruling is no longer correct. *Chadbourn & Parke LLP v. Troice*, 134 S. Ct. 1058 (2014); *In re Kingate Mgmt. Ltd. Litig.*, ___ F.3d ___, 2015 WL 1839874; *In re Herald, Primeo & Thema Sec. Litig.*, 730 F.3d 112 (2d Cir. 2013) *reh’g denied*, 753 F.3d 110 (2d Cir. 2014), *cert. denied*, No. 14-730, ___ S. Ct. ___, 2015 WL 1400872 (Mar. 30, 2015).

In particular, in *Kingate*, 2015 WL 1839874, at *10, the Second Circuit has now held that SLUSA’s “in connection with” requirement is met where plaintiffs “purchased the uncovered shares of the offshore [so-called Madoff feeder] Funds, expecting that the Funds were investing the proceeds in S&P 100 stock, which are covered securities.”


The *Anwar* Defendants accordingly intend to file motions explaining why these recent decisions compel a finding that SLUSA precludes plaintiffs’ remaining common-law claims against both the Citco and PwC Defendants. We believe that this important issue requires full briefing by the parties. In prior correspondence to the Court, plaintiffs have agreed, stating that “full briefing . . . would enable all parties . . . to address comprehensively the multiple recent decisions of the Supreme Court, the Second Circuit, and other District Judges that may bear on the issue.” (*Anwar* Pls.’ Ltr. 1, June 19, 2014, ECF No. 1282.) We are prepared to file our papers within thirty days so that this Court may address this important issue as soon as possible.

We are prepared to discuss these motions with the Court during a telephonic conference at the Court’s earliest convenience.

Respectfully submitted,

Andrew Gordon 
Andrew Gordon

cc: All counsel in *Anwar* (by e-mail)

The Clerk of Court is directed to enter into the public record of this action the letter above submitted to the Court by	
<u>the Citco Defendants</u>	
SO ORDERED.	
<u>4-28-15</u>	
DATE	VICTOR MARRERO, U.S.D.J.